

Organizations that are exclusively religious, educational, or charitable can make application to the Department for exemption identification numbers required to make tax-free purchases of tangible personal property for use or consumption. 86 Ill. Adm. Code 130.2007. (This is a GIL.)

November 27, 2001

Dear Xxxxx:

This letter is in response to your letter dated September 28, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See, 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

I have a question on charging sales tax or not on Fundraisers. Here is my problem. I am attempting to get a fundraising account with NAME.

My supplier is from California & I do not pay them sales tax which you probably know. They have a Brochure of Products which I will give every child involved. They also will have an order form which has a column that says Sales Tax (if applicable). Once they receive all of the money & orders, I will then take a consolidated order and send it off to California so they can send the Products either to the school or myself. I do not have the Product on hand. Should the children charge sales tax or not? If they do, are they liable for the sales tax or do they give the sales tax to me?

Also, if they are tax exempt, would that make a difference to me? Also, how would the sales tax effect other different organizations such as churches, lodges, teen clubs, community events, & charities, etc? I thank you for your time & answering of these questions.

From the information provided, it is not clear to us who is selling the product to the school. It appears, from the limited information in your letter, that the products are sold by you to the school.

Organizations that qualify as exclusively religious, charitable, or educational can apply to the Illinois Department of Revenue to obtain tax exemption identification numbers (an "E" number). These numbers establish that the Department recognizes said organizations as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of their organizational purposes. See 86 Ill. Adm. Code 130.2007. Sales to governmental bodies are subject to tax unless the governmental body has obtained an active exemption identification number ("E" number) from the Department. See 86 Ill. Adm. Code 130.2080, enclosed.

Companies selling tangible personal property to organizations that qualify as exclusively religious, charitable, or educational or to governmental bodies must be provided with an "E" number for sales to such organizations or governmental bodies to be tax exempt, unless another exemption can be documented.

While organizations and institutions that are both operated and organized exclusively for charitable, religious, or educational purposes are as a general matter subject to Retailers' Occupation Tax upon their own sales of tangible personal property, there are three limited exceptions where such organizations are authorized to engage in a restricted amount of retail selling activity without incurring Retailers' Occupation Tax liability.

These limited amounts of selling are described in 86 Ill. Adm. Code 130.2005(a)(2) through (a)(4). An exempt organization may engage in sales to members, noncompetitive sales, and certain occasional dinners and similar activities (two fundraisers a year) without incurring Retailers' Occupation Tax liability. In regard to sales to members, please note that the population to which sales are made is limited to persons specifically associated with that exempt organization and must be for the primary purpose of the selling organization. Organizations could use their E numbers to purchase items for such limited exempt sales. However, if organizations engage in ongoing selling activities (such as Little League concession stand sales or sales of items in a thrift shop run by a church), they must also register with the Department as retailers, file returns and remit tax.

Based upon these assumptions, the school will need to provide you with an "E" number if such sales are made two or fewer times a year. However, if the school engages in this type of fundraising more than twice a year, the school will need to provide you with a Certificate of Resale.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Shane McCreery

By:

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SM:JTG:msk

Enc.